

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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DAVID FLOYD, LALIT CLARKSON, DEON DENNIS,
and DAVID OURLICHT, individually and on behalf of a
class of all others similarly situated;

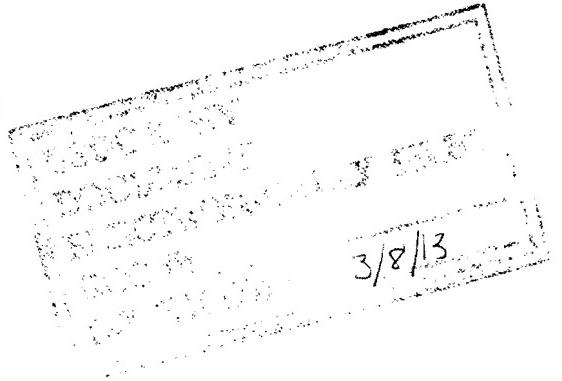
Plaintiffs,

-against-

THE CITY OF NEW YORK; NEW YORK CITY POLICE
COMMISSIONER RAYMOND KELLY, in his individual
and official capacity; MAYOR MICHAEL BLOOMBERG,
in his individual and official capacity; NEW YORK CITY
POLICE OFFICER RODRIGUEZ, in his individual
capacity; NEW YORK CITY POLICE OFFICER
GOODMAN, in his individual capacity; NEW YORK
CITY POLICE OFFICER JANE DOE, in her individual
capacity; NEW YORK CITY POLICE OFFICER ERIC
HERNANDEZ, Shield # 15957, in his individual capacity;
NEW YORK CITY POLICE OFFICER CORMAC
JOYCE, Shield # 31274, in his individual capacity; NEW
YORK CITY POLICE SERGEANT JAMES KELLY,
Shield # 92145, in his individual capacity; NEW YORK
CITY POLICE OFFICER LUIS PICHARDO, Shield #
00794, in his individual capacity; NEW YORK CITY
POLICE OFFICER ANGELICA SALMERON, Shield #
7116, in her individual capacity; NEW YORK CITY
POLICE OFFICER MICHAEL COUSIN HAYES, Shield
3487, in his individual capacity; NEW YORK CITY
POLICE OFFICER CHRISTOPHER MORAN, in his
individual capacity; and NEW YORK CITY POLICE
OFFICERS JOHN DOES # 1 through #11, in their
individual capacities;

STIPULATION AND
[PROPOSED] ORDER OF
WITHDRAWAL OF
INDIVIDUAL DAMAGE
CLAIMS

08 Civ. 01034 (SAS)



Defendants.

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WHEREAS, Plaintiffs David Floyd and Lalit Clarkson commenced this proceeding by filing a complaint on or about January 31, 2008 alleging violations of certain federal rights; and

WHEREAS, Plaintiffs David Floyd, Lalit Clarkson, and Deon Dennis filed a First Amended Complaint on or about April 15, 2008 on behalf of themselves and others similarly situated seeking declaratory and injunctive relief and individual damages; and

WHEREAS, Plaintiffs David Floyd, Lalit Clarkson, Deon Dennis, and David Ourlicht filed a Second Amended Complaint on October 20, 2008 on behalf of themselves and others similarly situated seeking declaratory and injunctive relief; and

WHEREAS, the Second Amended Complaint also sought compensatory and punitive damages on behalf of Plaintiffs Floyd, Clarkson, Dennis, and Ourlicht (the “Individual Damage Claims”); and

WHEREAS, Defendants have denied any and all liability arising out of Plaintiffs’ allegations; and

WHEREAS, by Opinion and Order dated August 31, 2011 (Docket Entry No. 153), the Court dismissed defendants Raymond Kelly and Michael Bloomberg from the case;

WHEREAS, at the time of the filing of these complaints, Plaintiff were represented by the Center for Constitutional Rights and Beldock Levine & Hoffman LLP, and are now represented by those firms in addition to Covington & Burling LLP; and

WHEREAS, Plaintiffs Floyd, Clarkson, Dennis, and Ourlicht have authorized their counsel to withdraw their respective Individual Damage Claims in this action; and

WHEREAS, Plaintiffs Floyd, Clarkson, Dennis, and Ourlicht, through counsel, expressed their desire at the November 27, 2012 hearing in this action to withdraw their respective Individual Damage Claims and as a result the parties and the Court agreed at the November 27, 2012 hearing that this case must be tried to the Court.

NOW THEREFORE, IT IS HEREBY STIPULATED, pursuant to Federal Rule of Civil Procedure 41(a)(1)(A)(ii), by and between the parties through their respective counsel of record, that:

1. Plaintiffs agree to withdraw the Individual Damage Claims, with prejudice, against all defendants against whom such Claims were asserted or could have been asserted, including the individuals identified in the Second Amended Complaint as "JOHN DOES # 1 through #11," and agree not to assert any other damages claim in this action.
2. Plaintiffs specifically withdraw the following paragraphs of their Second Amended Complaint
 - a. Plaintiffs' allegation "In addition, the named Plaintiffs seek compensatory and punitive damages for themselves" in paragraph 7 of the Second Amended Complaint is withdrawn;
 - b. Plaintiffs' allegation "The named Plaintiffs are seeking compensatory and punitive damages only on an individual basis" in paragraph 40 of the Second Amended Complaint is withdrawn;
 - c. Plaintiffs' allegation "and damages" in paragraph 144 of the Second Amended Complaint is withdrawn;
 - d. Plaintiffs' allegation "thus entitling Plaintiff Floyd to an award of punitive damages" in paragraph 149 of the Second Amended Complaint is withdrawn;
 - e. Plaintiffs' allegation "thus entitling Plaintiff Clarkson to an award of punitive damages" in paragraph 154 of the Second Amended Complaint is withdrawn;
 - f. Plaintiffs' allegation "thus entitling Plaintiff Dennis to an award of punitive damages" in paragraph 159 of the Second Amended Complaint is withdrawn;

- g. Plaintiffs' allegation "thus entitling Plaintiff Ourlicht to an award of punitive damages" in paragraph 164 of the Second Amended Complaint is withdrawn;
- h. Plaintiffs' allegation "thus entitling Plaintiffs to an award of punitive damages" in paragraph 168 of the Second Amended Complaint is withdrawn;
- i. Plaintiffs' allegation "and damage" in paragraph 173 of the Second Amended Complaint is withdrawn;
- j. The prayers for relief set forth in paragraphs (d) and (e) of the Second Amended Complaint are withdrawn.

3. This Stipulation shall not be construed to withdraw any request for injunctive relief asserted on behalf of Plaintiffs Floyd, Clarkson, Dennis and Ourlicht or on behalf of the class certified in this action, including without limitation injunctive relief that may require the expenditure of money by any Defendant.

4. The Plaintiffs agree to withdraw all claims, with prejudice, against the following Defendants and to dismiss the following Defendants from the case:

- a. NEW YORK CITY POLICE OFFICER RODRIGUEZ, in his individual capacity;
- b. NEW YORK CITY POLICE OFFICER GOODMAN, in his individual capacity;
- c. NEW YORK CITY POLICE OFFICER JANE DOE, in her individual capacity;
- d. NEW YORK CITY POLICE OFFICER ERIC HERNANDEZ, Shield # 15957, in his individual capacity;
- e. NEW YORK CITY POLICE OFFICER CORMAC JOYCE, Shield # 31274, in his individual capacity;
- f. NEW YORK CITY POLICE SERGEANT JAMES KELLY, Shield # 92145, in his individual capacity;

- g. NEW YORK CITY POLICE OFFICER LUIS PICHARDO, Shield # 00794, in his individual capacity;
- h. NEW YORK CITY POLICE OFFICER ANGELICA SALMERON, Shield # 7116, in her individual capacity;
- i. NEW YORK CITY POLICE OFFICER MICHAEL COUSIN HAYES, Shield # 3487, in his individual capacity;
- j. NEW YORK CITY POLICE OFFICER CHRISTOPHER MORAN, in his individual capacity; and
- k. The individuals identified in the Second Amended Complaint as "NEW YORK CITY POLICE OFFICERS JOHN DOES # 1 through #11," in their individual capacities.

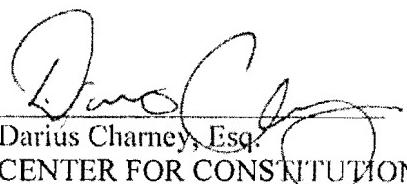
5. The parties also agree that the caption of the Second Amended Complaint shall be amended to omit any reference to the following defendants:

- a. NEW YORK CITY POLICE COMMISSIONER RAYMOND KELLY, in his individual and official capacity;
- b. MAYOR MICHAEL BLOOMBERG, in his individual and official capacity;
- c. NEW YORK CITY POLICE OFFICER RODRIGUEZ, in his individual capacity;
- d. NEW YORK CITY POLICE OFFICER GOODMAN, in his individual capacity;
- e. NEW YORK CITY POLICE OFFICER JANE DOE, in her individual capacity;
- f. NEW YORK CITY POLICE OFFICER ERIC HERNANDEZ, Shield # 15957, in his individual capacity;
- g. NEW YORK CITY POLICE OFFICER CORMAC JOYCE, Shield # 31274, in his individual capacity;

- h. NEW YORK CITY POLICE SERGEANT JAMES KELLY, Shield # 92145, in his individual capacity;
- i. NEW YORK CITY POLICE OFFICER LUIS PICHARDO, Shield # 00794, in his individual capacity;
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- k. NEW YORK CITY POLICE OFFICER MICHAEL COUSIN HAYES, Shield # 3487, in his individual capacity;
- l. NEW YORK CITY POLICE OFFICER CHRISTOPHER MORAN, in his individual capacity; and
- m. NEW YORK CITY POLICE OFFICERS JOHN DOES # 1 through #11, in their individual capacities.

Dated: New York, New York
March S, 2013

Counsel for Plaintiffs:



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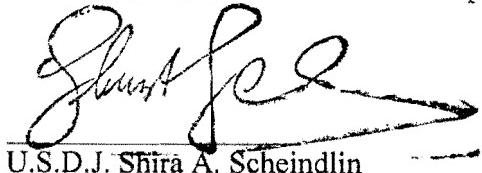


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SO ORDERED:



U.S.D.J. Shira A. Scheindlin